

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) 3:10-CR-027-B  
 )  
JACK ZIMMERMAN, )  
 )  
Defendant. )

REDACTED  
SENTENCING HEARING  
BEFORE THE HONORABLE JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE  
MARCH 3, 2011

A P P E A R A N C E S

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SHAWNIE ARCHULETA, CSR/CRR  
FEDERAL COURT REPORTER - 214.753.2747

1 (In open court.)

2 THE COURT: Mr. Zimmerman is up next.

3 MS. MILLER: Good afternoon, Your Honor.

4 Lisa Miller for the government.

5 THE COURT: Ms. Miller and Mr. Scoggins.

6 MR. SCOGGINS: Yes, Your Honor.

7 THE COURT: And this is case 3:10-CR-027.

8 Mr. Zimmerman, good afternoon.

9 THE DEFENDANT: Good afternoon.

10 THE COURT: As you know, today is the day  
11 for the sentencing in your case. The first thing I  
12 want to do is make sure I have all the paperwork  
13 that I'm supposed to have and make sure you've had a  
14 chance to review it all. I will be asking you some  
15 questions along those lines, and you also get a  
16 chance to speak on your own behalf.

17 I will place you under oath. Raise your  
18 right hand.

19 (The Defendant was sworn.)

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. Mr. Zimmerman, have you  
22 had a chance to thoroughly review the presentence  
23 report?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Have you had a chance to

1 review that with your counsel?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Do you fully understand the  
4 presentence report?

5 THE DEFENDANT: Ma'am.

6 THE COURT: Do you fully understand the  
7 presentence report?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. The government filed a  
10 statement wherein they had some objections to the  
11 presentence report.

12 Have you had a chance to review that with  
13 Mr. Scoggins?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Any questions about that?

16 Mr. Zimmerman, any questions about that?

17 THE DEFENDANT: No.

18 THE COURT: The next document is your  
19 statement. It's filed by Mr. Scoggins containing  
20 some objections as to the presentence report.

21 Have you had a chance to review that  
22 carefully with Mr. Scoggins?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you fully understand the  
25 document?

1 THE DEFENDANT: I understand what it says.  
2 But that's -- is this when I tell her --

3 MR. SCOGGINS: No, we will get to that.

4 THE COURT: All right. Do you understand?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Okay. The government also  
7 filed a sentencing memorandum where they went into  
8 certain issues that have been raised by the  
9 presentence report, the objections and whatnot, as  
10 well as the addendum.

11 Have you had a chance to review the  
12 sentencing memorandum with your attorney,  
13 Mr. Scoggins?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you fully understand it?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Any questions about it?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: There is also an addendum that  
20 was filed by U.S. Probation in response to some of  
21 the objections that have been filed.

22 Have you had a chance to review that  
23 carefully with your attorney, as well?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Any questions about that right

1 now?

2 THE DEFENDANT: No.

3 THE COURT: Okay. And finally, I have a  
4 statement regarding the addendum wherein you have  
5 objected to certain wording in the presentence  
6 report in paragraphs 20, 22, 35 and 36A.

7 Have you had a chance to review this with  
8 Mr. Scoggins?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Any questions about that?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Okay. And then, finally, in a  
13 brief statement the government adopted the  
14 presentence report as modified by the addendum.

15 Let's go back, then, and talk about  
16 objections. Mr. Scoggins, where are we with the  
17 objections? I know there's been a back and forth  
18 with the government, probation and you. Where are  
19 we in terms of your -- oh, I also have two character  
20 letters that were written for him, and I read them  
21 as well.

22 MR. SCOGGINS: Yes. Thank you, Judge. We  
23 are down to the objections to the addendum only at  
24 this time.

25 THE COURT: Okay. So as set forth in the

1 original statement regarding the presentence report,  
2 you have no objections that -- you no longer  
3 maintain those objections except to the extent they  
4 may be repeated in this last document?

5 MR. SCOGGINS: Yes, the addendum cured a  
6 lot of the objections we had initially, Your Honor.

7 THE COURT: Okay. All right. I just  
8 wanted to make sure the record was clear on what you  
9 were regarding. So if you could tell me with regard  
10 to your statement most recently that raises concerns  
11 about paragraphs 20, 22, 35 and 36A. Other than  
12 that, are you still raising any objections in the  
13 original set of objections?

14 MR. SCOGGINS: No, Your Honor.

15 THE COURT: Okay. This has to do with the  
16 obstruction of justice enhancement.

17 MR. SCOGGINS: It does, Your Honor.

18 THE COURT: Let's hear your position on  
19 that.

20 MR. SCOGGINS: Judge, in that regard,  
21 there was an occasion -- and of course you have seen  
22 the factual issues here. The intent that  
23 Mr. Zimmerman was for his, who is now his ex-wife,  
24 to obtain those tapes and destroy them because he  
25 didn't want his daughter to come home from college,

1 come across them and view them, because they were  
2 inappropriate for her view. And he didn't even want  
3 his wife to look at them because he knew they were  
4 inappropriate. And that was his intent. It wasn't  
5 to obstruct justice, but to protect his family from  
6 looking at materials that were not suitable for them  
7 to review.

8 THE COURT: And that is the sum and  
9 substance of his objection?

10 MR. SCOGGINS: That is it, Your Honor.

11 THE COURT: Okay. Ms. Miller?

12 MS. MILLER: Well, Your Honor, in  
13 response, while it is correct that the Court needs  
14 to make a specific finding with regard to the  
15 willful nature of the defendant's obstruction of  
16 justice, I believe that the facts contained within  
17 the presentence report indicate that this  
18 defendant's intent was just that. Based on the  
19 description of the videos and ultimately what the  
20 investigation revealed, which was that one of the  
21 individuals contained in that VHS tape that he  
22 directed his wife to destroy was, in fact, a minor  
23 and one whom he knew was a minor at that time  
24 indicates not just that the defendant knew these  
25 tapes were, quote, end quote, inappropriate, but

1 they were illegal, that it constituted production of  
2 child pornography.

3 Of course at the stage, at the point in  
4 time when this defendant directed his wife to do so,  
5 which was May 20, 2010, that was well after his  
6 indictment. It was also, interestingly, right just  
7 the day before he signed off on the plea agreement  
8 in this case.

9 I think the facts contained within the PSR  
10 alone demonstrate circumstantially that this  
11 defendant's intent was, in fact, to obstruct justice  
12 and to ensure that investigators were not aware of  
13 this young girl.

14 THE COURT: Ms. Miller, the government  
15 takes the position this is relevant conduct?

16 MS. MILLER: I do. Yes, Your Honor.

17 THE COURT: If you will try to square that  
18 with U.S. Probation's position, which seems to be  
19 maybe perhaps a shade different or so.

20 MS. MILLER: I think it is a shade  
21 different. I think what probation is saying is that  
22 this was not relevant conduct; rather, it was  
23 conduct similar to the offense, which I think is  
24 correct. I mean, I think the Court can certainly  
25 find that without any problem.



1           The case law that I have found and that I  
2       cited in my sentencing memorandum, however, has  
3       demonstrated that when you have -- when you have a  
4       course of conduct and a specific modus operandi --  
5       which in this case I think what is demonstrated is  
6       that this defendant posed as someone called Jeff  
7       367, and in doing so, held himself out to be a  
8       young, attractive man in order to be attracted by  
9       these younger girls, that was his modus operandi.  
10      It's the same course of conduct that he used in  
11      terms of enticing and producing the images of Jane  
12      Doe.

13           The fact that this conduct occurred, I  
14      think it was maybe six months prior, really, I don't  
15      think the 5th Circuit has indicated that that is  
16      something that would therefore mean it was not  
17      relevant conduct.

18           I think one of the cases that I cited  
19      demonstrated that when you have the same course of  
20      conduct and the same modus operandi, even 20 months  
21      is not too long for the Court to find that it is, in  
22      fact, relevant conduct.

23           That is the government's position.

24           THE COURT: Thank you, Ms. Miller.

25           Anything else on this, Mr. Scoggins?

1 MR. SCOGGINS: No, Your Honor.

2 THE COURT: The Court agrees with --  
3 overrules the objection. And to the extent the  
4 objection by the defendant seems to be centered on  
5 this issue of the evidence and his real intent, I  
6 agree, first of all, that of course counsel's  
7 objections alone are not sufficient to contradict  
8 the presentence report.

9 Nonetheless, the Court has to find that  
10 the presentence report is sufficiently reliable;  
11 that it can rely upon the presentence report in  
12 determining whether or not the government has met  
13 their preponderance of the evidence standard to  
14 support this obstruction of justice enhancement, and  
15 I think they have, this adjustment up.

16 Just as Ms. Miller has said, we are  
17 talking about the very same conduct and a period of  
18 time that all of the circumstantial evidence would  
19 certainly suggest that this was much more of an  
20 attempt to avoid the authorities in their continuing  
21 investigation of his involvement in child  
22 pornography as opposed to spare his daughter of any  
23 inadvertent stumbling upon this information.  
24 Apparently it had been around in one form or another  
25 for some time.

1 But the Court can and does rely upon the  
2 presentence report in this case as far as the  
3 circumstantial evidence, very strong, at least to a  
4 preponderance, that the defendant intended to  
5 obstruct justice, citing to a case somewhat similar,  
6 U.S. v. Calhoun, 383 F.3d 281 at keynotes 5, 6, 7,  
7 and 8 and pages 286 and 287, along these same lines  
8 with regard to inferences and circumstantial  
9 evidence of intent to obstruct justice. So I  
10 overrule the objection by the defendant for that  
11 reason.

12 But to address, then, the second part of  
13 this -- and that is the difference between  
14 U.S. Probation and what they put in their  
15 presentence report and the government's position of  
16 whether or not this is relevant conduct -- I agree  
17 with the government on this as set forth in their  
18 brief, I believe it's page 4, citing to the U.S. v.  
19 Anderson case, 174 F.3d 515, 526 and '27, affirming  
20 the district court's relevant conduct finding, where  
21 the conduct at issue and the conduct charged had a  
22 common purpose and a similar MO. They also cite to  
23 U.S. v. Fernandez-Pena. It's at Fed.Appx. 128, 380,  
24 5th Circuit 2005.

25 So to the extent the presentence report,

1 the addendum, or otherwise, varies from this  
2 position that it is relevant conduct, the Court does  
3 not adopt that portion of the presentence report and  
4 finds that it is relevant conduct. In any event,  
5 certainly the evidence supports the obstruction of  
6 justice adjustment.

7 All right. Mr. Scoggins, did you have  
8 anything else?

9 MR. SCOGGINS: No, Your Honor.

10 THE COURT: What's the government's  
11 position on the presentence report. Ms. Miller?

12 MS. MILLER: With regard to the Court's  
13 changes, the government has no objections.  
14 Okay. So where we are, then, is a total offense  
15 level of 43 with a criminal history category of I.  
16 Let me make sure I'm at the right place. I may not  
17 be. Is the revision in the addendum, the last  
18 revision to the calculation?

19 THE PROBATION OFFICER: Yes, Your Honor,  
20 it's on page 14 of the addendum. The total offense  
21 level, the highest that it can be is 43.

22 THE COURT: 12 to 14?

23 THE PROBATION OFFICER: Page 14.

24 THE COURT: 14?

25 THE PROBATION OFFICER: Yes, ma'am.

1 THE COURT: You did a lot of work on this.

2 THE PROBATION OFFICER: Yes, ma'am.

3 THE COURT: All right. With a total  
4 offense level of 45, and for the reasons set forth  
5 in the presentence report addendum at page 14, that  
6 takes it to a -- under U.S. Guideline Chapter 5,  
7 part A, comment note 2, as an offense level of 43.

8 Any disagreement with that? Okay. All  
9 right.

10 Mr. Scoggins, do you and your client want  
11 a chance to be heard?

12 MR. SCOGGINS: Yes. Mr. Zimmerman would  
13 like to address the Court, please.

14 THE DEFENDANT: Yes, ma'am. I am sorry  
15 for what I did. I admit, admit it all, and accept  
16 it all. I didn't try to obstruct justice at all.  
17 That's not what happened. If you want to know, I  
18 will tell you about it.

19 THE COURT: I think what I would like you  
20 to focus on -- it's your chance to talk, but you  
21 should focus on the idea of where the sentence ought  
22 to land.

23 THE DEFENDANT: I didn't try to obstruct  
24 justice, ma'am. I have health and medical issues.  
25 I'm 57 years old. I've never been in trouble before

1 in my life; never.

2 I've lost everything that I have ever had.  
3 I lost my wife, my daughter, my house, my vehicles,  
4 my friends' respect, money, anything, everything I  
5 have; I have nothing. A job of 20 years, I lost  
6 that. I lost my freedom. My health is gone, and  
7 I'm just sorry. I apologize for it. I really,  
8 honestly do.

9 My health is, I've got in October of '09 I  
10 went to the doctor, and I have terminal cancer,  
11 prostate cancer. You should have the letter for  
12 that or something.

13 I also had a stroke in October of '09. I  
14 found out I lost part of my brain function, my  
15 memory. I can't remember things. I lost part of my  
16 brain function.

17 I have a -- I cut off my foot, and I don't  
18 have an ankle. I can't walk. It was almost two  
19 years before I could walk again. And then in 2005,  
20 I had -- they fused my ankle together, and I got  
21 this MRSA virus, and I can't hardly walk. I started  
22 off in a wheelchair when I went back to work. They  
23 actually didn't think I was going to walk.

24 And I've got a back disease in my spine  
25 spondylosis. You should have that, too. And I have

1 a 27 percent impairment rating disability on that.

2 I've got other things that's wrong with  
3 me, but that's about the extent. That's the worst.  
4 The terminal cancer I've got. And I went in  
5 February of 2010, I was supposed to have an  
6 operation to remove it. They wouldn't let me out.  
7 Nobody would let me out to go have my operation. I  
8 had a job, and I had insurance, so it would have  
9 taken care of that; nothing happened.

10 And then, in September of -- of 2010,  
11 that's when I went and saw another urologist, and he  
12 confirmed that I had terminal cancer. At this point  
13 they sent me to another urologist here, just right  
14 before Christmas, and he's going to set it up, tell  
15 me what to do and so forth, what I need to do. I  
16 forget what the thing that they call it, they put it  
17 in here, your valve.

18 THE COURT: I feel bad about all that, but  
19 what about all these little girls?

20 THE DEFENDANT: I admit that was sorry.  
21 It was an addiction that I had. I was drinking. I  
22 had an addiction with drinking; on drugs at the  
23 time. And when I went to the doctor and I found out  
24 about cancer, I found out I had my stroke, and I  
25 just lost the hope to where -- I don't know what

1 happened to me. I lost hope. I went astray. I  
2 sinned against God; that's what hurts the most. I  
3 sinned against God. I turned away from God instead  
4 of to him at that time. That's what happened.

5 It was all fake. It was all -- I  
6 didn't -- it wasn't on any little girls. Most of  
7 the people that I talked to I thought were 18 or  
8 older. And she's correct that that's what I did. I  
9 created that fake thing. It wasn't anything for  
10 that, but at that time that's when I lost the hope  
11 in my mind, I just . . . I just let the devil get  
12 into me instead of turning to God. Like I said, I  
13 lost it.

14 As far as this obstruction of justice,  
15 that was a couple of months after they had sentenced  
16 me. I woke up one night, and I just -- it just hit  
17 me. It clicked in my mind that that was there.  
18 That was months and months and months before, it was  
19 there. And my daughter is going to graduate from  
20 school. And it just happened in my mind. Pick up  
21 the phone and call my wife, tell her. I don't want  
22 her to find that. I called Meg, and I asked her --  
23 I told her -- you know, I asked her, it's up there.  
24 There are these tapes, they are disgusting. You can  
25 listen to the tapes. It's up there.



1           She asked me, does it have anything to do  
2 with this?

3           And I said, no, this has nothing to do  
4 with that. It has nothing to do with that person.

5           She asked me again, and I said, no, it  
6 does not have anything to do with that person. It  
7 didn't upset me. I didn't think anything about it,  
8 to get rid of it. I didn't want her -- I figured  
9 that she would look at them and be disgusted, but  
10 she knew I didn't want my daughter to come in there  
11 and to get that and go to her college graduation.

12           That's the only thing that came to my  
13 mind. I didn't try to obstruct anything. I knew it  
14 didn't have anything to do with this. And there's  
15 one reading in here where it says that she asked me  
16 about it and I said no. That's not true. I didn't  
17 say that. She, Meg asked me, does it have anything  
18 to do with this case? And I said, no, it doesn't.  
19 I said, no, it has nothing at all to do with this.  
20 It's not the same person or nothing.

21           I confessed to her. I was up front with  
22 her, and I have been up front with her, and told her  
23 about everything. I didn't try to hide anything  
24 about that.

25           And like I say, my mind, it just -- it

1 came into me because I didn't know, it just came to  
2 me one time. And if I was trying to hide it, I  
3 wouldn't have called her on the phone. Now that I'm  
4 thinking about that, but that's not -- it wasn't my  
5 intent, Judge.

6 THE COURT: All right, Mr. Zimmerman,  
7 thank you very much.

8 Mr. Scoggins?

9 MR. SCOGGINS: Judge, we appreciate you  
10 reviewing the two character letters as part of the  
11 sentencing. His wife is not here. She is now his  
12 ex-wife. She divorced him during the pendency of  
13 the suit, but she did pay the \$200 special  
14 assessment for the two counts.

15 His sister and his niece are here from  
16 Oklahoma in his support.

17 THE COURT: Appreciate your coming.

18 MR. SCOGGINS: Ms. Miller, I'm sure will  
19 agree, that Mr. Zimmerman was debriefed and did  
20 agree that his online personas could be adopted and  
21 used for law enforcement investigative purposes.

22 THE COURT: All right. Anything else,  
23 Mr. Scoggins?

24 MR. SCOGGINS: No, Your Honor.

25 THE COURT: Anything -- why don't you take

1 a seat, and I want to give the government a chance  
2 to argue the case, argue the sentencing.

3 MS. MILLER: Well, Your Honor, I will be  
4 brief. As I sat and listened to Mr. Zimmerman's  
5 allocution, my thoughts, I believe, are very similar  
6 to the Court's. We heard all about all of the --  
7 all of what he has lost and all of the harm that has  
8 happened to him as a result of this case, and of  
9 course we heard nothing about the victims.

10 And I emphasize victims plural, because,  
11 as this Court has already found, directly in  
12 contrast to what Mr. Zimmerman is trying to claim,  
13 was that he did, in fact, obstruct justice. And but  
14 for his wife being up front with law enforcement, we  
15 might still not know that there was actually more  
16 than one -- more than one minor victimized by this  
17 defendant.

18 We're talking about the defendant, he  
19 almost seemed as if he was trying to tell the Court  
20 that somehow he didn't know or understand that he  
21 was dealing with minors. The facts of the case are  
22 clear. He absolutely knew. And that he took  
23 advantage repeatedly of a 14-year-old, who he chose  
24 to memorialize his abuse in photos to molest in the  
25 back of his old, dirty van, whom he engaged in sex

1 repeatedly without protection of a condom, a girl  
2 that he had treated like an object.

3 And very similarly from the videotapes  
4 that were seized from Mrs. Zimmerman after that  
5 phone call, similarly was the girl we have referred  
6 to as Jane Doe 2, although they did not have a  
7 direct physical contact, of course at his direction  
8 she did a number of demeaning things that he  
9 ultimately recorded.

10 So with that, Your Honor, I know there is  
11 an 11(c)(1)(C) agreement in this case for a cap of  
12 30 years. And I believe, based on the facts, that  
13 that is a generous sentence, and I would ask the  
14 Court to impose it.

15 THE COURT: All right. Thank you.

16 Come on back up here. Mr. Scoggins.

17 MR. SCOGGINS: Nothing further, Your  
18 Honor.

19 THE COURT: All right. If you will come  
20 back up to the lectern, please.

21 And I know this is all on the record and  
22 has been agreed to, but there is no dispute about  
23 the 11(c)(1)(C) up to 30 agreement that should not  
24 exceed 30 years; is that correct?

25 MR. SCOGGINS: That is correct, Your

1 Honor.

2 THE COURT: Mr. Zimmerman? Mr. Zimmerman?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: The sentence that you went  
5 over with counsel and the government pursuant to  
6 your plea agreement and obviously some cooperation  
7 that you have engaged in allows the Court to let you  
8 withdraw your plea if I wanted to sentence you for  
9 more than 30 years. And the fact is that that 30  
10 years, 360 months, is quite a long time.

11 The victims in this case -- we don't see  
12 many cases with victims as brutalized as yours.  
13 These young ladies -- and we don't have a loss of a  
14 life here, but a loss of maybe a peaceful life, a  
15 life that they are not tormented by the memories of  
16 someone so much older taking advantage of them in  
17 such a despicable way. And having you plead guilty,  
18 though, and not having to have any of these girls  
19 subjected to court testimony or court trial  
20 preparation is a benefit. And under all the  
21 circumstances, I think that the agreement is  
22 reasonable and should be accepted by the Court and  
23 therefore go forward with that.

24 I want to make sure the record reflects,  
25 to the extent this is ever reviewed in the future,

1    though, that the Court agrees with this sentence  
2    pursuant to 18 U.S.C. Section 3553, all those  
3    factors. I think it is reasonable under the  
4    circumstances. It is a heavy, heavy sentence, but  
5    agreed to in advance, both parties entering into it  
6    with eyes wide open.

7               MS. MILLER: Your Honor, I apologize for  
8    interrupting. I did mean to note just for the  
9    record that Rita Garrett is present as a victim  
10   representative. She elects not to address the  
11   Court. I'm sorry, I apologize, I meant to state  
12   that on the record, that she is present; however,  
13   she would not like to address the Court.

14              THE COURT: Thank you very much. I  
15   appreciate that. And certainly the statute in that  
16   regard isn't exercised or taken advantage of very  
17   often, but this is a case where it should be, and I  
18   am glad that it was.  
19   So considering your background, considering this  
20   crime at the -- as one of the more extreme, serious  
21   kinds of crimes that anyone in state or federal  
22   court sees, considering that it was a repeated  
23   course of conduct, taking advantage of people much  
24   younger, less sophisticated, or even able to  
25   understand what was going on, all of those, I think,

1 making sure the punishment is just and deters others  
2 from these crimes, for all of those reasons, even  
3 regardless of the guideline range, the statutory  
4 range, and the agreement by the government, I think  
5 the 360 months or 30 years in custody is fair and  
6 reasonable under the circumstances, and we will  
7 agree with the 11(c)(1)(C).

8           The rest of the conditions, then, of  
9 supervised release, which is going to be for a  
10 period of life after you are out of custody, I can  
11 turn to those conditions. And with all the papers  
12 here, perhaps probation can turn me to the location  
13 of the conditions of supervised release.

14           THE PROBATION OFFICER: Yes, Your Honor,  
15 the blue pages. On Page Number 2, towards the  
16 bottom of the page, supervised release.

17           THE COURT: I may not have --

18           THE PROBATION OFFICER: Do you not have  
19 blue pages? They are attached to the original  
20 presentence report. Yes, ma'am, the addendum did  
21 not impact the guideline computation because it was  
22 maxed out.

23           If Your Honor can't find it, you are  
24 certainly welcome to have my copy.

25           THE COURT: I have located them. Thank

1 you very much.

2 THE PROBATION OFFICER: Okay.

3 THE COURT: All right. Supervised release  
4 is for a period of life.

5 The conditions are as follows: The  
6 defendant shall not commit another federal, state or  
7 local crime.

8 The defendant shall not illegally possess  
9 a controlled substance.

10 The defendant shall cooperate in the  
11 collection of DNA as directed by probation.

12 The defendant shall not possess a firearm,  
13 ammunition, destructive device or any other  
14 dangerous weapon.

15 The defendant shall report in person to  
16 the U.S. Probation Office in the district to which  
17 he is released within 72 hours of release from the  
18 custody of the Federal Bureau of Prisons.

19 The defendant shall refrain from unlawful  
20 use of a controlled substance.

21 The defendant shall submit to one drug  
22 test within 15 days of release from imprisonment and  
23 at least two periodic drug tests thereafter as  
24 directed by probation.

25 The defendant shall participate and comply



1 with the requirements of computer and Internet  
2 monitoring. The details of that monitoring will be  
3 set forth in the Court's judgment in this case.

4 The defendant, further, shall submit to  
5 periodic, unannounced examination of his computer  
6 storage media. The details of that requirement will  
7 be set forth in the Court's judgment in this case.

8 The defendant shall not use any computer  
9 other than the one the defendant is authorized to  
10 use without prior approval from probation.

11 The defendant shall not use any software  
12 program or device designed to hide, alter or delete  
13 records and/or logs of the defendant's computer use,  
14 Internet activities, or files stored on his  
15 computer.

16 The defendant shall provide the probation  
17 officer with accurate information about his entire  
18 computer system.

19 The defendant's e-mail shall only be  
20 accessed through preapproved application.

21 The defendant shall not maintain or create  
22 a user account on any social networking site. The  
23 details of that will be set forth in the judgment.  
24 And again, that may be the thought that in 30 years  
25 these social networking tools may have changed, but

1 in the meantime that is a condition of release as it  
2 stands right now and part of the judgment.

3 The defendant shall not use or possess a  
4 Webcam or other hardware that allows for the  
5 exchange of video or photographs online.

6 The defendant shall not access any service  
7 or use in any software that allows for the direct --  
8 for direct peer-to-peer contact that may include  
9 chat rooms, file sharing, or other similar activity,  
10 but not limited to PDAs, electronic games, cellular  
11 digital telephones.

12 The defendant -- I'm sorry, backing up.  
13 The defendant shall not access any service or use  
14 any software that allows for direct peer-to-peer  
15 contact that may include chat rooms, file sharing,  
16 or other similar activity without permission.

17 The defendant shall not use or own any  
18 device that allows Internet access other than  
19 authorized by U.S. Probation, including but not  
20 limited to, PDAs, electronic games, and cellular  
21 digital telephones.

22 The defendant shall not engage or utilize  
23 any service that allows peer-to-peer file sharing or  
24 file transfer protocol activity.

25 The defendant shall not possess or use

1 removable media configured with bootable operating  
2 systems.

3 The defendant shall not access any  
4 Internet service provider account or other online  
5 service using someone else's account, name  
6 designation, or alias.

7 The defendant shall participate in sex  
8 offender treatment services as directed by probation  
9 until successfully discharged. The details of that  
10 will be set forth in the Court's judgment.

11 The defendant shall have no contact with  
12 persons under the age of 18, including by  
13 correspondence, telephone, Internet, electronic  
14 communication, or third parties. Again, the  
15 remaining details of that will also be in the  
16 Court's judgment.

17 The defendant shall not possess or have  
18 under his control any sexually-oriented or  
19 sexually-stimulating materials of adults or  
20 children. This may include visual, auditory,  
21 telephonic, electronic media, e-mail chat  
22 communications, instant messaging, or computer  
23 programs, and he shall not patronize any place where  
24 such materials are available. And he shall not use  
25 any sex-related telephone numbers.

1 Defendant shall have no contact with the  
2 victim or victims in this case in any form or  
3 fashion, correspondence, telephone communication,  
4 through third parties except under circumstances  
5 approved by probation and by the Court, for that  
6 matter.

7 The defendant shall register with state  
8 and local law enforcement as directed by probation  
9 in each jurisdiction where he resides, is employed,  
10 or is a student. And I will put forth the details  
11 of the sex offender registration requirements  
12 contained in paragraph 23 of the presentence report  
13 supervised release conditions in my judgment.

14 The defendant shall not have any form of  
15 unsupervised contact with persons under the age of  
16 18 at any location, including but not limited to:  
17 Defendant's residence, place of employment, and  
18 public places where minors frequent or congregate  
19 without prior permission of U.S. Probation.

20 He shall not possess, have access to, or  
21 utilize a computer or Internet connection device,  
22 including but not limited to, Xbox, PlayStation,  
23 Nintendo, or similar devices without permission of  
24 the Court.

25 I understand this may have been paid, but

1 it is further ordered that he pay a special  
2 assessment of \$200.

3 Are there counts to dismiss, Ms. Miller?

4 MS. MILLER: There are, Your Honor, and  
5 the government does so move to dismiss those counts.

6 THE COURT: And the counts of the guilty  
7 plea were Count 1?

8 MS. MILLER: Count 1 and Count 2, and I  
9 believe this was a six-count indictment, Your Honor.

10 THE COURT: Other than Counts 1 and 2, the  
11 government's motion to dismiss is granted. The  
12 Court's ruling on that will be entered among the  
13 minutes of this case.

14 As far as the plea agreement and the right  
15 to appeal, Mr. Zimmerman, I believe you have waived  
16 your right to appeal. Let me make sure about that.

17 Mr. Zimmerman, you have waived your right  
18 to appeal this sentence. That means that there are  
19 certain narrow areas that you can complain about.  
20 They are set forth in your plea agreement on page 5,  
21 paragraph 11.

22 If you decide to appeal those areas that  
23 you have reserved, you have a right to an attorney  
24 to represent you for the appeal and court-appointed  
25 counsel, if you can't afford your own. If you

1 decide to appeal, you must file your notice of  
2 appeal within ten days of the date of the Court's  
3 judgment in this case.

4 Mr. Scoggins, I have made it a regular  
5 practice now to ask counsel on board to make sure  
6 that if he wants to appeal this case that counsel --  
7 present counsel make sure that notice is filed, and  
8 then we will take care of any withdrawal, if  
9 necessary.

10 MR. SCOGGINS: Yes, Your Honor.

11 THE COURT: All right. Is there any other  
12 questions or requests by counsel?

13 MR. SCOGGINS: No, Your Honor.

14 THE COURT: Anything else from the  
15 government?

16 MS. MILLER: No, Your Honor.

17 THE COURT: If not, then, Mr. Zimmerman is  
18 remanded to federal custody, and we will take a  
19 short recess before the last hearing of the day.

20 (Court in recess as to this matter at 3:00.)  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Shawnie Archuleta, CCR/CRR, certify  
that the foregoing is a transcript from the record  
of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees  
format comply with those prescribed by the Court and  
the Judicial Conference of the United States.

This 15th day of June 2011.

s/Shawnie Archuleta  
Shawnie Archuleta CCR No. 7533  
Official Court Reporter  
The Northern District of Texas  
Dallas Division

My CSR license expires: December 31, 2011

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